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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,561	04/19/2004	William L. Stonecipher	132.02	3211
37761	7590	01/27/2006	EXAMINER	
ERICKSON & KLEYPAS, L.L.C. 800 W. 47TH STREET, SUITE 401 KANSAS CITY, MO 64112			LEWIN, ALLANA	
			ART UNIT	PAPER NUMBER
			3764	
DATE MAILED: 01/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/827,561

Applicant(s)

STONECIPHER, WILLIAM L.

Examiner

Allana Lewin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/19/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 recites the limitation "grip member" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 4 depends from claim 1 which does not recite this limitation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 15, 16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Matysek (US Pat. No. 1,366,200).
5. Matysek discloses an exercise device comprising a cross bar or center bar (see proximate lead line 1) and a pair of dumbbells (see proximate lead line 3) that are pivotally connected relative to the center bar, as the dumbbells are free to pivot about the bar, and that are removably securable to the bar via adjustable and removable bolts (see proximate lead line 8).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6, 8-13, 17, 18, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matysek in view of Castillo (US Pat. No. 4,867,444).

8. Matysek, discussed in detail above, also teaches the end bars or dumbbells extending perpendicularly to the center bar (note Figure 1) as well as an aperture with a fastening mechanism (see proximate lead lines 6 and 7) that enables additional weight to be added or removed (column 2, lines 40-4) thereby allowing for releasable connection of a weight member.

9. Matysek fails to disclose an exercise device having grip members removably securable to the dumbbells/end bars or to the center bar with a diameter of approximately four to six inches and that conforms to a substantially open-handed grip.

10. Castillo discloses a resilient grip apparatus for exercise devices that are removably securable (column 4, lines 3-4 and lines 18-23) and having a variable diameter. Castillo teaches the importance of using grip members when weightlifting in order to ensure proper bone alignment in the hands and wrists so as to avoid or prevent injury. Furthermore, it is known in the art that utilizing resilient grip members provides a cushioning that imparts added comfort to the user when exercising.

11. Based on the teachings of Castillo, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized resilient grip members in the Matysek device in order to prevent injuries as well as to provide added comfort to the user while exercising. The dumbbells in the Matysek apparatus are removable and therefore may be used with or separate from the center bar. Therefore, incorporating a removable grip to the dumbbells would provide the aforementioned benefits when they are used separately. Furthermore, the grip may be of variable diameter, which would provide for an open-handed grip if desired.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matysek in view of Wedge, Jr. (US Pat. No. 6,129,650).

13. Matysek, discussed in detail above, fails to disclose the center bar or cross bar being length adjustable.

14. Wedge teaches an exercise bar comprising a telescoping and length adjustable cross bar (note Figure 2) which allows the device to accommodate persons of different sizes using the device as well as enabling the device to be used for a wider range of exercises (column 4, lines 38-43).

15. Based on the teachings of Wedge, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a length adjustable cross bar in the Matysek device in order to make the device accommodating for many users and to allow the device to be used for various exercises.

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16. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matysek in view of Castillo and further in view of Wedge.

17. Matysek, discussed in detail above, fails to disclose the center bar or cross bar being length adjustable.

18. Wedge teaches an exercise bar comprising a telescoping and length adjustable cross bar (note Figure 2) which allows the device to accommodate persons of different sizes using the device as well as enabling the device to be used for a wider range of exercises (column 4, lines 38-43).

19. Based on the teachings of Wedge, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a length adjustable cross bar in Matysek modified supra in order to make the device accommodating for many users and to allow the device to be used for various exercises.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allana Lewin whose telephone number is 571-272-5560. The examiner can normally be reached on Monday-Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AL
1/20/2006


STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332